IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH SEPTEMBER 2007 / 13TH BHADRA 1929

WP(C).No. 20085 of 2007(N)

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ST.166/2007 of C.J.M.,KOTTAYAM

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PETITIONER:

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BABY MATHEW, S/O. A.J.MATHEW,
ARAKANKUDIYIL VEETTIL, MANAGING DIRECTOR,
SOMATHEERAM AYURVEDIC BEACH RESORT PVT. LTD.,
KOTTUKAL VILLAGE, CHOWARA P.O., TRIVANDRUM.

BY ADV. SRI.VARGHESE C.KURIAKOSE
SRI.PRAVEEN K. JOY

RESPONDENTS:

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1. COMMISSIONER OF POLICE,
TRIVANDRUM.

2. ASST. COMMISSIONER OF POLICE,
TRIVANDRUM.

3. SUB INSPECTOR OF POLICE,
VIZHINJAM.

4. JOSEPH ANTONY, S/O. ANTONY,
MOOZHIKUNNEL HOUSE, KOOVAPPALLY P.O.,
KANJIRAPPALLY.

5. SEBASTIAN ANTONY, AGED 46, S/O. ANTONY,
MOOZHIKUNNEL VEEDU, MUTTAPPALLY P.O.,
ERUMELY.

6. SONEY ELDHO, S/O. ELDHO,
KULAPURAM HOUSE, KOTHAMANGALAM.

7. T.D.ANTONY,
THUNDIPARAMBIL HOUSE, EZHINJILLAM,
CHANGANACHERRY, NOW RESIDING AT VENNALIL HOUSE,
EZHINJILLAM KARA, PERUMTHURUTHY P.O.,
THIRUVALLA TALUK, PATHANAMTHITTA DISTRICT.

8. SHAJO VARGHESE,
POOVATHINALMATTOM, MANNARAKKAYAM P.O.,
CHIRAKKADAVU, KANJIRAPPALLY.

9. TOMY MATHEW, AGED 49, S/O. A.J.MATHEW,
ANAMBANKUDY HOUSE, NEAR CST CHURSH,
KOZHIPILLY JUNCTION, KUTHUKUZHIKARA,
KOTHAMANGALAM VILLAGE.

BY GOVERNMENT PLEADER SRI.GIKKU JACOB

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 04/09/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

**R.BASANT, J.**

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W.P.C.No.20085 of 2007

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Dated this the 4th day of September 2007

**J U D G M E N T**

The petitioner had approached this court earlier with Crl.M.C.No.4209/2005 and connected cases. Those cases were disposed of by a common judgment dated 01/12/2006. Several directions were issued. As direction (d) in paragraph 18 of the said common judgment, it was directed that further investigation in C.C.No.274/2004 and the investigation in crime No.358/2005 must be conducted properly and completed expeditiously.

2. The petitioner has now come before this court with the grievance that such investigation is not completed expeditiously. It is complained that no proper investigation is being conducted. The present investigating officer, the first respondent has filed a detailed statement. Steps taken for the proper investigation as directed in paragraph 18(d) of the common judgment are enumerated by the investigating officer in such statement. It is submitted that such investigation shall be completed and the final report shall be submitted within a period of three months from 6/8/2007.

3. The petitioner does not appear to be satisfied with that undertaking given by the investigating officer. The petitioner submits that even if the investigating officer were granted three months time, as prayed for by him, there may be a further direction to the learned Chief Judicial Magistrate, Kottayam to keep the trial of the five cases under Section 138 of the Negotiable Instruments Act against the petitioner in abeyance until the final report is filed. Relief to that effect was claimed earlier and this court did not grant the said request and had directed the learned Chief Judicial Magistrate, Kottayam to dispose of all the cases. Paragraph 18(c) of the common judgment makes the position clear.

4. I do not, in these circumstances, find any necessity to direct the learned Chief Judicial Magistrate to keep any of the cases in abeyance awaiting the final report of the investigating officer in the investigation conducted in pursuance of the direction issued in paragraph 18(d). Such direction does appear to me to be unnecessary. Needless to say, the accused persons can take up all the defences which are available to them in those cases i.e. S.T.Nos.166/07, 167/07, 199/07, 234/07 and 351/07. It is certainly not necessary to direct that the trial in such cases before the learned Chief Judicial Magistrate,

Kottayam be kept in abeyance until the investigation is completed as directed in paragraph 18(d) of the common order/judgment.

5. It follows that the petitioner is not entitled for any further directions in his favour in this writ petition. I accept the submission of the investigating officer that the investigation shall be completed expeditiously within a period of three months as undertaken by him.

6. This writ petition is in these circumstances dismissed.

**(R.BASANT, JUDGE)**

jsr

// True Copy// PA to Judge

**R.BASANT, J.**

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007